IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

R.S.A No.1084 of 2007
Date of Decision: May 21, 2007

STATE OF HARYANA & OTHERS

.....APPELLANTS

VERSUS

SUMITRA DEVI

.....RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE A.N.JINDAL

. . .

PRESENT:- Mr. Praduman Yadav, DAG Haryana.

A.N.JINDAL, J (ORAL)

This regular second appeal is directed against the judgment dated 21.12.2006 passed by Sh. J.S.Jangra, Addl. District Judge, Jind dismissing the appeal of the State of Haryana against the judgment dated 27.07.2005 decreeing the suit of the plaintiff and holding that the order dated 25.07.1996 and 09.12.1996 passed by Superintendent of Police, Telecommunication, Haryana Police, Panchkula stopping 8 increments of the plaintiff and the order dated 16.09.1999 passed by Inspector General of Police,Telecom, Haryana, Panchkula to be illegal, null and void and not binding upon the rights of the plaintiff and that she was legally entitled to get aforesaid increments alongwith special pay of Rs.100 per month including all other service benefits now or in future and a decree of mandatory injunction directing the defendants

to pay arrears of 8 increments alongwith special pay of Rs. 100/- per month.

Respondent/plaintiff Sumitra Devi(hereinafter referred to as the plaintiff) was appointed as a lady Constable Wireless under Ex-gratia Scheme vide order dated 11.03.1992 but instead, she was posted at the post of Lady Constable messenger, though there is no such post for Lady Constable in the office of Wireless, Suptd. of Police. So the act of the defendants being illegal,is not binding upon her. She further alleged that the various representations made by her were not responded rather she was misbehaved and no fair enquiry was conducted by the Enquiry Officer and her increments were stopped without any reason. She never missed to attend the office of the Enquiry Officer but the Enquiry Officer was negligent towards her. She never used any un-parliamentary language against her seniors but they levelled false allegations against her. Consequently, special pay of Rs. 100/- per month for which she was entitled, was also withheld along with eight annual increments. Her appeal was also illegally dismissed on 16.09.1999. Now she has requested for setting aside the orders vide which her increments were stopped and she was not given special pay of Rs.100/- per month. The aforesaid averments were controverted by the appellants/defendants (hereinafter referred to as the defendants) and it was inter alia averred that after completion of the necessary formalities and holding due enquiry against the respondent the increments were rightly stopped. As regards the special pay of Rs.100/- it has

been averred that Lady Messenger having not entitled for special pay of Rs.100/- was not given as such.

The trial Court vide judgment dated 27.7.2005 decreed the suit of the defendant in toto, whereas in appeal, the District Judge while dismissing the appeal modified the order to the extent that the plaintiff was entitled to the special pay of Rs. 60/- per month instead of Rs.100/- per month.

On examination of the records, and the concurrent finding of the fact returned by both the Courts below, it transpires that proper procedure prescribed in the rules for conducting departmental enquiry was not followed by the enquiry Officer and the enquiry was conducted in violation of the principles of natural justice that too without affording opportunity of producing evidence to the plaintiff in enquiry proceedings. The allegation that the respondent used un-parliamentary language against the senior officer, has also not been proved and it is not established that as to what un-parliamentary language was used by the respondent so as to find out about the justification of the penalty awarded against her. Thus both the courts have not committed any such illegality inviting interference by this Court at this stage.

Consequently finding no merit, this regular second appeal is hereby dismissed.

(A.N.Jindal)
Judge

May 21,2007

Ruchika